

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

LYNNE FREEMAN,

Plaintiff,

vs.

TRACY DEEBBS-ELKENANEY P/K/A
TRACY WOLFF, et al.,

Defendants.

Case No.: 1:22-cv-02435-LLS-SN

**DEFENDANTS' RESPONSE TO PLAINTIFF'S
ADDITIONAL STATEMENT OF FACTS**

Defendants object to, deny, and dispute every statement in Plaintiff's improper, untimely, and prejudicial additional statement of facts ("ASUF," ECF 330 ¶¶ 154-794). The ASUF should be stricken as set forth in Defendants' concurrently filed supplemental evidence brief. (Supp Evid. Br. § I.)

The parties' works speak for themselves. (*See generally Crave* (ECF 300-1); *Crush* (ECF 300-2); *Covet* (ECF 300-3); *Court* (ECF 300-4); *BMR 2011* (ECF 301-1); *BMR 2013* (ECF 301-2).) The cherry-picked purported similarities identified in the ASUF are irrelevant to substantial similarity under *Williams*, 84 F.3d at 583, 590-91, and its progeny. Plaintiff's claims about the works are inaccurate and misleading as shown in Defendants' briefing (Copyright Br. (ECF 298) § I; Copyright Reply § I), and it would be wasteful, inappropriate, and prejudicial to have to rebut each ASUF statement one by one. The evidence cited by Plaintiff in each ASUF statement proves that the statement is either a distortion, unprotected idea expressed differently, or inapposite triviality. The ASUF also cites an impermissible amalgamation of different *BMR* drafts and informal note sets, and is a mere reiteration of Lynne Freeman's inadmissible indexes. (Copyright Reply § I.A.2; Supp. Evid. Br. § I.) Defendants additionally incorporate and reassert the objection,

denial, and dispute stated in response to other similarity statements in Plaintiff's original Rule 56.1 statement. (Defs.' CSUF (ECF 310) ¶ 107.)

The foregoing objection, dispute, and denial is hereby stated in response to each of the 641 paragraphs of Plaintiff's ASUF.

Dated: New York, New York
February 28, 2024

Respectfully submitted,

**COWAN DEBAETS ABRAHAMS
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CERTIFICATE OF SERVICE

I, Nancy E. Wolff, hereby certify that a true and correct complete copy of Defendants' Response to Plaintiff's Additional Statement of Facts has been served on all counsel of record via the Court's CM/ECF service.

/s/ Nancy E. Wolff
Nancy E. Wolff